

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GARY GREEN,) Case No. CV 09-7994-DMG(RC)
)
Petitioner) ORDER ADOPTING REPORT AND
) RECOMMENDATION OF UNITED STATES
vs.) MAGISTRATE JUDGE AND
) ORDER DENYING CERTIFICATE
WARDEN MICHAEL S. EVANS,) OF APPEALABILITY
)
Respondent.)
_____)

Pursuant to 28 U.S.C. Section 636, the Court has reviewed the petition and other papers along with the attached Report and Recommendation of United States Magistrate Judge Rosalyn M. Chapman, and has made a de novo determination.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted; (2) the Report and Recommendation is adopted as the findings of fact and conclusions of law herein; and (3) Judgment shall be entered dismissing the petition for writ of habeas corpus and action without prejudice.

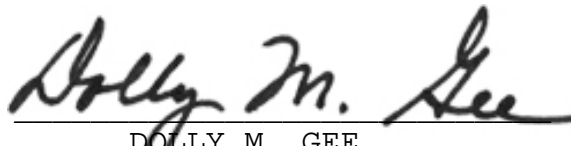
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1 This Court finds an appeal would not be taken in good faith, and
2 petitioner has not made a substantial showing that he has been denied
3 a constitutional right and that this Court was not correct in its
4 procedural rulings, for the reasons set forth in the Report and
5 Recommendation of the United States Magistrate Judge, and accordingly,
6 a certificate of appealability should not issue under 28 U.S.C.
7 § 2253(c)(2) and Fed. R. App. P. 22(b). Slack v. McDaniel, 529 U.S.
8 473, 483, 120 S. Ct. 1595, 1604, 146 L. Ed. 2d 542 (2000); Olvera v.
9 Giurbino, 371 F.3d 569 (9th Cir. 2004). Thus, IT IS FURTHER ORDERED
10 that a Certificate of Appealability be DENIED.

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12 FINALLY, IT IS FURTHER ORDERED that the Clerk shall serve copies
13 of this Order, the Magistrate Judge's Report and Recommendation and
14 Judgment by the United States mail on petitioner.

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16 DATED: June 23, 2010

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18 DOLLY M. GEE
19 UNITED STATES DISTRICT JUDGE

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